

IC 31-34-21

Chapter 21. Review of Dispositional Decrees; Formal Review Hearings

IC 31-34-21-1

Progress reports; procedure for modification of decree

Sec. 1. (a) At any time after the date of an original dispositional decree, the juvenile court may order:

- (1) the county office of family and children; or
- (2) the probation department;

to file a report on the progress made in implementing the decree.

(b) If, after reviewing the report, the juvenile court seeks to consider modification of the dispositional decree, the juvenile court shall proceed under IC 31-34-23.

As added by P.L.1-1997, SEC.17.

IC 31-34-21-2

Periodic case review

Sec. 2. (a) In accordance with federal law, the case of each child in need of services under the supervision of the county office of family and children must be reviewed at least once every six (6) months, or more often, if ordered by the court.

(b) The first of these periodic case reviews must occur:

- (1) at least six (6) months after the date of the child's removal from the child's parent, guardian, or custodian; or
- (2) at least six (6) months after the date of the dispositional decree;

whichever comes first.

(c) Each periodic case review must be conducted by the juvenile court in a formal court hearing.

As added by P.L.1-1997, SEC.17. Amended by P.L.35-1998, SEC.9.

IC 31-34-21-3

Progress report required before case review

Sec. 3. Before a case review under section 2 of this chapter, the probation department or the county office of family and children shall prepare a report in accordance with IC 31-34-22 on the progress made in implementing the dispositional decree.

As added by P.L.1-1997, SEC.17.

IC 31-34-21-4

Notice of case review; testimony in periodic case review

Sec. 4. (a) Except as provided in subsection (f), at least ten (10) days before the periodic case review, including a case review that is a permanency hearing under section 7 of this chapter, the county office of family and children shall send notice of the review to each of the following:

- (1) The child's parent, guardian, or custodian.
- (2) An attorney who has entered an appearance on behalf of the child's parent, guardian, or custodian.

(3) A prospective adoptive parent named in a petition for adoption of the child filed under IC 31-19-2 if:

(A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner required by IC 31-19-9 and filed with the county office of family and children;

(B) the court having jurisdiction in the adoption case has determined under any applicable provision of IC 31-19-9 that consent to adoption is not required from a parent, guardian, or custodian; or

(C) a petition to terminate the parent-child relationship between the child and any parent who has not executed a written consent to adoption under IC 31-19-9-2 has been filed under IC 31-35 and is pending.

(4) Any other person who:

(A) the county office of family and children has knowledge is currently providing care for the child; and

(B) is not required to be licensed under IC 12-17.2 or IC 12-17.4 to provide care for the child.

(5) Any other suitable relative or person who the county office knows has had a significant or caretaking relationship to the child.

(b) At least ten (10) days before the periodic case review, including a case review that is a permanency hearing under section 7 of this chapter, the county office of family and children shall provide notice of the review to the child's foster parent or long term foster parent by the same process prescribed under Indiana Trial Rule 4.1. The county office of family and children shall present proof of service of the notice at the case review.

(c) The court shall provide to a person described in subsection (a) or (b) an opportunity to be heard and to make any recommendations to the court in a periodic case review, including a permanency hearing under section 7 of this chapter. The right to be heard and to make recommendations under this subsection includes:

(1) the right of a person described in subsection (a) or (b) to submit a written statement to the court that, if served upon all parties to the child in need of services proceeding and the persons described in subsection (a) or (b), may be made a part of the court record; and

(2) the right to present oral testimony to the court and cross examine any of the witnesses at the hearing.

(d) Except as provided in subsection (f), this section does not exempt the county office of family and children from sending a notice of the review to each party to the child in need of services proceeding.

(e) The court shall continue the review if, at the time of the review, the county office of family and children has not provided the court with signed verification from the child's foster parent or long term foster parent, as obtained through subsection (b), that the foster parent or long term foster parent, has been notified of the review at

least five (5) business days before the review. However, the court is not required to continue the review if the child's foster parent or long term foster parent appears for the review.

(f) If the parent of an abandoned child does not disclose the parent's name as allowed by IC 31-34-2.5-1(c), the parent is not required to be notified of a proceeding described in subsection (a). *As added by P.L.1-1997, SEC.17. Amended by P.L.35-1998, SEC.10; P.L.133-2000, SEC.6; P.L.217-2001, SEC.9; P.L.152-2003, SEC.2.*

IC 31-34-21-4.5

Foster parent's intervention

Sec. 4.5. (a) Except as provided in subsection (b) a foster parent, long term foster parent, or a person who has been a foster parent may petition the court to request intervention as a party to a proceeding described in this chapter.

(b) A foster parent who has been:

(1) the subject of a substantiated report of child abuse or neglect; or

(2) convicted of a felony listed in IC 12-17.4-4-11;

may not petition the court to intervene under this section.

(c) A court may grant a petition filed under this section if the court determines that intervention of the petitioner is in the best interests of the child.

As added by P.L.133-2000, SEC.7. Amended by P.L.152-2003, SEC.3.

IC 31-34-21-4.6

"Long term foster parent"

Sec. 4.6. As used in this section, "long term foster parent" means a foster parent who has provided care and supervision for a child for at least:

(1) the twelve (12) most recent months; or

(2) fifteen (15) months of the most recent twenty-two (22) months.

As added by P.L.152-2003, SEC.4.

IC 31-34-21-5

Determination; findings

Sec. 5. (a) The court shall determine:

(1) whether the child's case plan, services, and placement meet the special needs and best interests of the child;

(2) whether the county office of family and children has made reasonable efforts to provide family services; and

(3) a projected date for the child's return home, the child's adoption placement, the child's emancipation, or the appointment of a legal guardian for the child under section 7.5(1)(E) of this chapter.

(b) The determination of the court under subsection (a) must be based on findings written after consideration of the following:

(1) Whether the county office of family and children, the child,

or the child's parent, guardian, or custodian has complied with the child's case plan.

- (2) Written documentation containing descriptions of:
 - (A) the family services that have been offered or provided to the child or the child's parent, guardian, or custodian;
 - (B) the dates during which the family services were offered or provided; and
 - (C) the outcome arising from offering or providing the family services.
- (3) The extent of the efforts made by the county office of family and children to offer and provide family services.
- (4) The extent to which the parent, guardian, or custodian has enhanced the ability to fulfill parental obligations.
- (5) The extent to which the parent, guardian, or custodian has visited the child, including the reasons for infrequent visitation.
- (6) The extent to which the parent, guardian, or custodian has cooperated with the county office of family and children or probation department.
- (7) The child's recovery from any injuries suffered before removal.
- (8) Whether any additional services are required for the child or the child's parent, guardian, or custodian and, if so, the nature of those services.
- (9) The extent to which the child has been rehabilitated.
- (10) If the child is placed out-of-home, whether the child is in the least restrictive, most family-like setting, and whether the child is placed close to the home of the child's parent, guardian, or custodian.
- (11) The extent to which the causes for the child's out-of-home placement or supervision have been alleviated.
- (12) Whether current placement or supervision by the county office of family and children should be continued.
- (13) The extent to which the child's parent, guardian, or custodian has participated or has been given the opportunity to participate in case planning, periodic case reviews, dispositional reviews, placement of the child, and visitation.
- (14) Whether the county office of family and children has made reasonable efforts to reunify or preserve a child's family unless reasonable efforts are not required under section 5.6 of this chapter.
- (15) Whether it is an appropriate time to prepare or implement a permanency plan for the child under section 7.5 of this chapter.

As added by P.L.1-1997, SEC.17. Amended by P.L.35-1998, SEC.11.

IC 31-34-21-5.5

Reasonable efforts to preserve and reunify families

Sec. 5.5. (a) In determining the extent to which reasonable efforts to reunify or preserve a family are appropriate under this chapter, the child's health and safety are of paramount concern.

(b) Except as provided in section 5.6 of this chapter, a county office of family and children shall make reasonable efforts to preserve and reunify families as follows:

- (1) If a child has not been removed from the child's home, to prevent or eliminate the need for removing the child from the child's home.
- (2) If a child has been removed from the child's home, to make it possible for the child to return safely to the child's home as soon as possible.

As added by P.L.35-1998, SEC.12. Amended by P.L.1-1999, SEC.62.

IC 31-34-21-5.6

Exceptions to requirement to make reasonable efforts to preserve and reunify families

Sec. 5.6. (a) A court may make a finding described in this section at any phase of a child in need of services proceeding.

(b) Reasonable efforts to reunify a child with the child's parent, guardian, or custodian or preserve a child's family as described in section 5.5 of this chapter are not required if the court finds any of the following:

(1) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:

(A) an offense described in IC 31-35-3-4(1)(B) or IC 31-35-3-4(1)(D) through IC 31-35-3-4(1)(J) against a victim who is:

- (i) a child described in IC 31-35-3-4(2); or
- (ii) a parent of the child; or

(B) a comparable offense as described in clause (A) in any other state, territory, or country by a court of competent jurisdiction.

(2) A parent, guardian, or custodian of a child who is a child in need of services:

(A) has been convicted of:

- (i) the murder (IC 35-42-1-1) or voluntary manslaughter (IC 35-42-1-3) of a victim who is a child described in IC 31-35-3-4(2)(B) or a parent of the child; or
- (ii) a comparable offense described in item (i) in any other state, territory, or country; or

(B) has been convicted of:

- (i) aiding, inducing, or causing another person;
- (ii) attempting; or
- (iii) conspiring with another person;

to commit an offense described in clause (A).

(3) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:

- (A) battery (IC 35-42-2-1(a)(5)) as a Class A felony;
- (B) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;
- (C) battery (IC 35-42-2-1(a)(3)) as a Class C felony;
- (D) aggravated battery (IC 35-42-2-1.5);
- (E) criminal recklessness (IC 35-42-2-2) as a Class C felony;

- (F) neglect of a dependent (IC 35-46-1-4) as a Class B felony; or
 - (G) a comparable offense described in clauses (A) through (F) in another state, territory, or country;
- against a child described in IC 31-35-3-4(2)(B).
- (4) The parental rights of a parent with respect to a biological or adoptive sibling of a child who is a child in need of services have been involuntarily terminated by a court under:
- (A) IC 31-35-2 (involuntary termination involving a delinquent child or a child in need of services);
 - (B) IC 31-35-3 (involuntary termination involving an individual convicted of a criminal offense); or
 - (C) any comparable law described in clause (A) or (B) in any other state, territory, or country.
- (5) The child is an abandoned infant, provided that the court:
- (A) has appointed a guardian ad litem or court appointed special advocate for the child; and
 - (B) after receiving a written report and recommendation from the guardian ad litem or court appointed special advocate, and after a hearing, finds that reasonable efforts to locate the child's parents or reunify the child's family would not be in the best interests of the child.

As added by P.L.35-1998, SEC.13. Amended by P.L.197-1999, SEC.5; P.L.133-2000, SEC.8; P.L.222-2001, SEC.2; P.L.217-2001, SEC.10; P.L.1-2003, SEC.78.

IC 31-34-21-5.7

Permanency plan; requirement; approval; reports and orders not required

Sec. 5.7. (a) This section applies at any phase of a child in need of services proceeding whenever a court enters a finding that reasonable efforts to reunify or preserve a child's family are not required under section 5.6 of this chapter.

(b) The county office of family and children shall do the following:

- (1) Complete a permanency plan for the child that complies with the requirements of section 7.5 of this chapter.
- (2) Seek court approval of the permanency plan under section 7 of this chapter.

(c) Notwithstanding any otherwise applicable requirements under IC 31-34, whenever the county office of family and children seeks approval of a permanency plan for the child under subsection (b), the following reports, orders, and hearings are not required:

- (1) A predispositional report to consider participation of a child's parent, guardian, or custodian in any program of care, treatment, or rehabilitation of the child.
- (2) A dispositional decree under IC 31-34-19-6 and findings and conclusions under IC 31-34-19-10 that concern:
 - (A) participation of the child's parent, guardian, or custodian in a program for future care or treatment of the child; or

(B) reasonable efforts to prevent the child's removal from the child's home or to reunite the child with the child's parent, guardian, or custodian.

As added by P.L.35-1998, SEC.14.

IC 31-34-21-5.8

Out-of-home or permanent placement; progress reports and case reviews not required

Sec. 5.8. (a) This section applies only if a court has approved a permanency plan for a child under section 7(b)(4) of this chapter.

(b) If the continuation of reasonable efforts to preserve and reunify a child in need of services with the child's family is inconsistent with the child's permanency plan, the county office of family and children shall make reasonable efforts to:

- (1) with court approval place the child in an out-of-home placement in accordance with the permanency plan; and
- (2) complete whatever steps are necessary to finalize the permanent placement of the child in a timely manner.

(c) This subsection applies whenever the child's approved permanency plan under section 7 of this chapter is placement of the child for adoption or another planned, permanent living arrangement. Periodic progress reports, case reviews, and postdispositional hearings to determine whether or the extent to which the following have occurred are not required:

- (1) Whether reasonable efforts have been made to eliminate the need for removal of the child from the child's home or to make it possible for the child to safely return to the child's home.
- (2) Whether the child is placed in close proximity to the home of the child's parent, guardian, or custodian.

As added by P.L.35-1998, SEC.15.

IC 31-34-21-6 Repealed

(Repealed by P.L.35-1998, SEC.28.)

IC 31-34-21-7

Permanency hearing

Sec. 7. (a) The court shall hold a permanency hearing:

- (1) not more than thirty (30) days after a court finds that reasonable efforts to reunify or preserve a child's family are not required as described in section 5.6 of this chapter;
- (2) every twelve (12) months after:
 - (A) the date of the original dispositional decree; or
 - (B) a child in need of services was removed from the child's parent, guardian, or custodian;whichever comes first; or
- (3) more often if ordered by the juvenile court.

(b) The court shall:

- (1) make the determination and findings required by section 5 of this chapter;
- (2) consider the question of continued jurisdiction and whether the dispositional decree should be modified;

- (3) consider recommendations of persons listed under section 4 of this chapter, before approving a permanency plan under subdivision (4);
- (4) consider and approve a permanency plan for the child that complies with the requirements set forth in section 7.5 of this chapter;
- (5) determine whether an existing permanency plan must be modified; and
- (6) examine procedural safeguards used by the county office of family and children to protect parental rights.

(c) There is a rebuttable presumption that jurisdiction over the child in a child in need of services proceeding continues for not longer than twelve (12) months after the date of the original dispositional decree or twelve (12) months after the child in need of services was removed from the child's parent, guardian, or custodian, whichever occurs first. The state may rebut the presumption and show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished, that a continuation of the decree with or without any modifications is necessary, and that it is in the child's best interests for the court to maintain its jurisdiction over the child. If the county office of family and children does not sustain its burden for continued jurisdiction, the court shall:

- (1) direct the county office of family and children to establish a permanency plan within thirty (30) days; or
- (2) discharge the child and the child's parent, guardian, or custodian.

The court may retain jurisdiction to the extent necessary to carry out any orders under subdivision (1).

As added by P.L.1-1997, SEC.17. Amended by P.L.35-1998, SEC.16; P.L.1-1999, SEC.63; P.L.14-2000, SEC.64.

IC 31-34-21-7.3

Internet posting of nonidentifying information

Sec. 7.3. (a) This section applies after:

- (1) a court authorizes the filing of a petition to terminate the parent-child relationship; or
- (2) a petition to terminate the parent-child relationship is filed;

in relation to a child in need of services.

(b) The division shall post the following nonidentifying information on the Internet to facilitate a potential adoptive placement of the child:

- (1) The child's age, gender, and summary of the child's educational, social, and medical background, including known disabilities.
- (2) The reason the child was removed from the child's home.
- (3) Whether a person has expressed an interest in adopting the child.
- (4) The name, address, and telephone number of a contact person from the appropriate:

- (A) county office of family and children; or
 - (B) licensed child placing agency;
- where a person who may be interested in adopting the child may obtain further information about adopting the child.
- (5) Whether a petition to terminate the rights of the child's parents has been authorized or filed, and whether the rights of the child's parents have been terminated.
- (6) An address and telephone number of the appropriate:
- (A) county office of family and children; or
 - (B) licensed child placing agency;
- where a person who may be interested in adopting the child may obtain further information about adopting the child.
- (c) The information posted under subsection (a) may not identify the name of any of the following persons:
- (1) The child.
 - (2) The child's biological or adoptive parents.
 - (3) A sibling of the child.
 - (4) A caretaker of the child.
- (d) The division shall update any relevant information under this section after either of the following:
- (1) Each of the child's periodic reviews that occur after the information under this section is required to be posted.
 - (2) The rights of the child's parents have been terminated.
- (e) The division shall remove the information required under subsections (b) and (c) from the Internet whenever the child is reunited with the child's family or an adoption of the child is filed under IC 31-19-2.
- (f) Upon request, a county office of family and children shall inform the person making the request of the address of the Internet Web site containing the information described in this section.
- As added by P.L.35-1998, SEC.17.*

IC 31-34-21-7.5

Permanency plans prohibited if household contains certain individuals; exceptions

Sec. 7.5. (a) Except as provided in subsection (d), the juvenile court may not approve a permanency plan under subsection (c)(1)(D), (c)(1)(E), or (c)(1)(F) if a person who is currently residing with a person described in subsection (c)(1)(D) or (c)(1)(E) or in a residence in which the child would be placed under subsection (c)(1)(F) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in

IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, or IC 31-34-20-1.5 establishes whether a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) A permanency plan under this chapter includes the following:

(1) The intended permanent or long term arrangements for care and custody of the child that may include any of the following arrangements that the court considers most appropriate and consistent with the best interests of the child:

(A) Return to or continuation of existing custodial care within the home of the child's parent, guardian, or custodian or placement of the child with the child's noncustodial parent.

(B) Initiation of a proceeding by the agency or appropriate person for termination of the parent-child relationship under IC 31-35.

(C) Placement of the child for adoption.

(D) Placement of the child with a responsible person, including:

- (i) an adult sibling;
- (ii) a grandparent;
- (iii) an aunt;
- (iv) an uncle; or
- (v) another relative;

who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.

(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:

- (i) Care, custody, and control of the child.
- (ii) Decision making concerning the child's upbringing.

(F) Placement of the child in another planned, permanent living arrangement.

(2) A time schedule for implementing the applicable provisions of the permanency plan.

(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of implementation of the permanency plan.

(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.

- (d) A juvenile court may approve a permanency plan if:
- (1) a person described in subsection (a) has:
 - (A) committed an act resulting in a substantiated report of child abuse or neglect; or
 - (B) been convicted or had a juvenile adjudication for:
 - (i) reckless homicide (IC 35-42-1-5);
 - (ii) battery (IC 35-42-2-1) as a Class C or D felony;
 - (iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;
 - (iv) arson (IC 35-43-1-1) as a Class C or D felony;
 - (v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;
 - (vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or
 - (vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and
 - (2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that approval of the permanency plan is in the best interest of the child.

However, a court may not approve a permanency plan if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(e) In making its written finding under subsection (d), the court shall consider the following:

- (1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.
- (2) The severity of the offense, delinquent act, or abuse or neglect.
- (3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

As added by P.L.35-1998, SEC.18. Amended by P.L.70-2004, SEC.23; P.L.234-2005, SEC.184.

IC 31-34-21-7.7

Permanency plan; guardianship

Sec. 7.7. If the juvenile court approves a permanency plan under section 7 of this chapter that provides for the appointment of a guardian for a child, the juvenile court may appoint a guardian of the person and administer a guardianship for the child under IC 29-3. If a guardianship of the person proceeding for the child is pending in a probate court, the probate court shall transfer the proceeding to the juvenile court.

As added by P.L.217-2001, SEC.11.

IC 31-34-21-8**Progress report required before formal hearing**

Sec. 8. Before a hearing under section 7 of this chapter, the probation department or the county office of family and children shall prepare a report in accordance with IC 31-34-22 on the progress made in implementing the dispositional decree.

As added by P.L.1-1997, SEC.17.

IC 31-34-21-9**Foster care review board**

Sec. 9. (a) The juvenile court may assign cases to a foster care review board established by the court to assist the court in reviewing foster care placements.

(b) The foster care review board shall review a foster care placement at the juvenile court's request and shall file a report, including findings and recommendations with the court.

(c) If the juvenile court believes the contents of a confidential report or document would benefit the review board, the court may provide the review board with an order authorizing disclosure of the document to the review board. The review board may not disclose the contents of a confidential report or document to any person who is not allowed disclosure by the court or by statute.

As added by P.L.1-1997, SEC.17.

IC 31-34-21-10**Review of child's legal settlement**

Sec. 10. (a) This section applies when a juvenile court reviews the implementation of a decree under this chapter or any other law concerning a child placed in a state licensed private or public health care facility, child care facility, or foster family home.

(b) The juvenile court shall review the court's findings under IC 31-34-20-5 and determine whether circumstances have changed the legal settlement of the child.

(c) If the child's legal settlement has changed, the court shall issue an order that modifies the court's findings of fact concerning the legal settlement of the child.

(d) If the court has not previously made findings of fact concerning legal settlement as provided in IC 31-34-20-5, the court shall make the appropriate findings in its order entered under this chapter.

(e) The juvenile court shall comply with the reporting requirements under IC 20-26-11-9 concerning the legal settlement of the child.

As added by P.L.1-1997, SEC.17. Amended by P.L.1-2005, SEC.207.

IC 31-34-21-11**Discharge of child**

Sec. 11. When the juvenile court finds that the objectives of the dispositional decree have been met, the court shall discharge the child and the child's parent, guardian, or custodian.

As added by P.L.1-1997, SEC.17.